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John J. Santalone  
Enzo Biochem Inc.  
527 Madison Ave.  
9th Floor  
New York, NY 10022

In re Application of	:	
ROY-CHOWDHURY et al.	:	
Application No.: 09/171,909	:	DECISION ON
PCT No.: PCT/US98/03606	:	
Int. Filing Date: 26 February 1998	:	PETITION UNDER
Priority Date: 28 February 1997	:	
Attorney Docket No.: ENZ-55 (CIP)	:	37 CFR 1.137(b)
For: NOVEL PROCESSES IMPLEMENTING	:	
SELECTIVE IMMUNE DOWN REGULATION (SIDR)	:	

This decision is in response to the "PETITION TO REVIVE AN UNINTENTIONALLY ABANDONED APPLICATION UNDER 37 CFR § 1.137(b)" submitted by applicants on 10 January 2001.

### **BACKGROUND**

On 26 February 1998, applicants filed international application PCT/US98/03606, which claimed a priority date of 28 February 1997. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 03 September 1998. The twenty-month period for paying the basic national fee in the United States expired at midnight on 28 October 1998.

On 28 October 1998, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, an authorization to charge the basic national fee to Deposit Account 05-1135.

On 12 March 1999, the USPTO mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/905) indicating that the above-identified application was abandoned as to the United States of America for failure to provide the full basic national fee by twenty months from the priority date (the deposit account had insufficient funds).

On 13 April 1999 applicants filed a "PETITION TO REVIVE AN UNINTENTIONALLY ABANDONED APPLICATION UNDER 37 CFR § 1.137(b)".

On 22 February 2000, a decision was mailed by the USPTO granting applicants' petition to revive under 37 CFR 1.137(b).

On 13 March 2000, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors and the surcharge for providing the oath or declaration later than twenty months from the priority date were required.

On 22 December 2000, the USPTO mailed a second NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/905) indicating that the above-identified application was abandoned for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 13 March 2000.

On 10 January 2001, applicants submitted a second "PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION UNDER 37 CFR § 1.137(b)", which was accompanied by, *inter alia*, a declaration of the inventors and the surcharge under 37 CFR 1.492(e).

### DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:

- (1) The required reply;
- (2) The petition fee;
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicants submitted a declaration of inventors and the surcharge under 37 CFR 1.492(e) on 10 January 2001.

As to item (2), the requisite petition fee of \$1,240.00 was submitted on 10 January 2001.

With regard to item (3), petitioner's statement that "the entire delay in filing the required Declaration from the April 13, 2000 due date until the filing of a grantable petition under 37 CFR § 1.137(b) was unintentional" has been construed as meaning that "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional." If this interpretation is incorrect, applicant must *immediately* notify the PCT Legal Office of such fact. (Note that the required reply included the surcharge under 37 CFR 1.492(e) as well as an oath or declaration of the inventors.)

A review of the application file reveals that, with the filing of the present petition and

accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

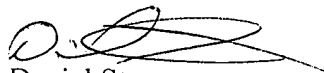
The declaration filed 10 January 2001 complies with 37 CFR 1.497(a)-(b).

**CONCLUSION**

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Office of PCT Legal Affairs.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including according the application a 35 U.S.C. 371(c) date of **10 January 2001**.



Daniel Stemmer  
Legal Examiner  
Office of PCT Legal Affairs  
Telephone: (703) 308-2066  
Facsimile: (703) 308-6459